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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

042390.P11190

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on July 5, 2006

Signature _____

Typed or printed name Tu Nguyen

Application Number

09/943,904

Filed

8-30-2001

First Named Inventor

Vincent J. Zimmer

Art Unit

2113

Examiner

Joseph D. Manoskey

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 42,034

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Thinh V. Nguyen

Typed or printed name

(714) 557-3800

Telephone number

July 5, 2006

Date

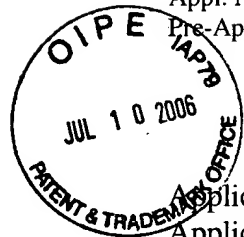
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application. No. : 09/943,904
Applicant : Vincent J. Zimmer
Filed : 8-30-2001
TC/A.U. : 2113
Examiner : Joseph D. Manoskey

Confirmation No. 2083

Docket No. : 042390.P11190
Customer No. : 8791

Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

In response to the Final Office action dated April 13, 2006, Applicant would like to request a pre-appeal panel review of the application.

Remarks/Arguments begin on page 2 of this paper.

REMARKS/ARGUMENTS

Claims 1-27 are pending in the present application.

This request is in response to the Final Office Action mailed April 13, 2006. In the Final Office Action, the Examiner rejected claims 1-27 under 35 U.S.C. §102(b). Applicants respectfully traverse the rejections and contend that the Examiner has not established a prima facie case of indefiniteness and/or anticipation.

Pre-appeal panel review of the application in light of the remarks/arguments made herein is respectfully requested.

There are several clear errors in the Examiner's rejections and arguments.

1. Christeson does not disclose, either expressly or inherently, adding a new initiation module to a BIOS firmware of a computing system having an extensible firmware architecture, the BIOS firmware having a plurality of initiation modules including recovery initiation modules for recovery of the computing system and non-recovery modules.

Applicants refer to the response filed on January 23, 2006, page 6 (paragraph number 1), and page 8 (second paragraph). Among other things, Applicants contend that Christeson merely discloses two update modes. Furthermore, since the BIOS firmware contained in the flash memory is fixed, occupying a fixed address range and having a fixed size (Christeson, Figure 2), it does not have an extensible firmware architecture. The Examiner's further argued in the Final Office Action (Final Office Action, page 11, lines 1-5) that Christeson discloses "[a]n additional BIOS region can be used to extend the system BIOS memory area.", citing Christeson, column 2, lines 50-51. However, the excerpt merely states that the system BIOS memory area is extended, not adding the initiation module, or an extensible firmware architecture.

2. Christeson does not disclose, either expressly or inherently, automatically evaluating the initiation module.

Applicants refer to the response filed on January 23, 2006, page 6 (paragraph number 2), and page 8 (third paragraph). Among other things, Applicants contend that Christeson merely discloses comparing a file against a specified memory area, not evaluating the initiation module.

3. Christeson does not disclose, either expressly or inherently, designating the new initiation module as a recovery initiation module if the new initiation module is required for the recovery of the computing system.

Applicants refer to the response filed on January 23, 2006, page 7 (paragraph numbers 3-4), and page 8 (fourth paragraph). Among other things, Applicants contend that Christeson merely discloses dividing the BIOS into normal BIOS map and recovery BIOS map, designating the new initiation module as a recovery initiation module. The division of the BIOS into the normal BIOS map and the recovery BIOS map is done before the update and without adding a new initiation module.

Accordingly, Applicants respectfully request the Review Panel render a decision allowing the application.

Conclusion

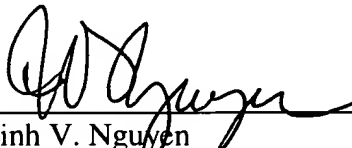
Applicant respectfully requests the Review Panel render a decision allowing the application.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: July 5, 2006

By



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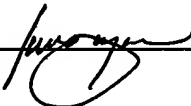
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Date: July 5, 2006

Tu Nguyen



July 5, 2006

Date